FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 5165 OF 2003
IN
FIRST APPEAL (ST) NO. 49461 OF 2003

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

CORAM: A.S. OKA, J.
DATE : 17th August, 2004.

P.C.:-

1. Rule. Respondent No. 1(a) to 1(c) and 2 waives service. Service on Respondent no.3 is dispensed with. This application is for stay of decree of possession passed by the Trial Court by recording a finding that the Appellant has no right to occupy the suit premises. As the First Appeal is admitted for hearing, decree for possession cannot be allowed to be executed. However, considering the findings recorded by the Trial Court, the Appellant is not entitled to unconditional stay.

2. The learned Counsel appearing for Respondent nos. 1(a) to 1(c) and 2 has submitted a statement showing that the sum of Rs.10,500.88/- is payable by way of arrears of rent till 31st July, 2004. The said amount will have to be paid by the Applicant without prejudice to his rights and contentions. As decree for possession has been passed and execution thereof is being stayed the Applicant will have to keep on depositing reasonable amount by way of compensation per month. Considering the facts and circumstances of the case, the Civil Application is disposed of by passing the following order.

ORDER

(a) The execution of the Judgment and decree passed by the Trial Court will remain stayed till the final disposal of the First Appeal subject to following conditions :

(i) The Applicant will not create any third party interest in respect of the suit premises and will not part with the possession thereof in favour of

any third party.

(ii) The Applicant will pay a sum of Rs.10,500/- to Respondents No.1(b) within a period of six weeks from today.

(c) The Applicant will keep on depositing a sum of Rs.750/- per month with the Respondent no.1(b) from August, 2004 till the disposal of the Appeal. The payment for the month of August shall be made on or before 31st August, 2004. For the subsequent months, The payment shall be made on or before fifteenth day of every calendar month.

(iv) It is made clear that the payment of the aforesaid amounts by the Applicant to the Respondents and receipt thereof by the Respondents will be without prejudice to the rights and contentions of both the parties and subject to final result of the Appeal.

(v) In the event, the applicant commits default in payment of the aforesaid amounts, liberty to the Respondents to apply for vacating the interim relief.

(vi) There will be no orders as to costs.

Sd/-

JUDGE